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OUTGOING TELEGRAM
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4-12-73 X21320
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S/PC - MR. GATHRIGHT

DEPARTMENT OF STATE A/CDC/MR
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E.O. 11652: GDS
TAGS: TSPA, PFOR, UN
SUBJECT: OUTER SPACE LEGAL: MOON TREATY - NATURAL RESOURCES
REF: (A) USUN 1191
(B) STATE 63090
(C) USUN 1289

1. DELEGATION IS AUTHORIZED TO ACCEPT AND SUPPORT ITALIAN COMPROMISE ARTICLE (PARA 4, REF A) ON NATURAL RESOURCES, AS MODIFIED PER REF C AND PARAS BELOW.

2. REFERENCE THROUGHOUT ARTICLE TO "THE MOON" WOULD BE FOLLOWED BY PHRASE "AND OTHER CELESTIAL BODIES" IN ACCORDANCE WITH OUR POSITION ON SCOPE OF TREATY.

3. PARA 2 OF ITALIAN TEXT WOULD BE REDRAFTED TO ACCOMMODATE CHANGES SET FORTH PARA 1, REF C. PARA 2 WOULD NOW READ AS FOLLOWS: QUOTE NEITHER THE SURFACE NOR THE SUBSURFACE OF THE MOON OR OTHER CELESTIAL BODIES, OR ANY AREAS THEREOF SHALL BECOME THE PROPERTY OF ANY STATE, INTERNATIONAL INTERGOVERNMENTAL OR NON-GOVERNMENTAL ORGANIZATION, NATIONAL ORGANIZATION OR NON-GOVERNMENTAL ENTITY, OR OF ANY NATURAL PERSON. THE PLACEMENT OF PERSONNEL, SPACE VEHICLES, EQUIPMENT, FACILITIES, STATIONS AND INSTALLATIONS ON OR BELOW THE SURFACE OF THE MOON, INCLUDING STRUCTURES CONNECTED WITH ITS SURFACE OR SUBSURFACE, SHALL NOT

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CREATE A RIGHT OF OWNERSHIP OVER THE SURFACE OR SUB-SURFACE OF THE MOON OR OTHER CELESTIAL BODIES OR ANY AREAS THEREOF. UNQUOTE.

4. IN ORDER TO AVOID ANY POSSIBLE INFERENCE THAT OTHER PROVISIONS OF ARTICLE (E.G., "COMMON HERITAGE" PRINCIPLE AND BASIC PRINCIPLES OF INTERNATIONAL REGIME) ESTABLISH OR ENVISAGE MORATORIUM ON EXPLOITATION, DELEGATION SHOULD MAKE CLEAR ON RECORD THAT WE CAN ACCEPT THIS ARTICLE ON BASIS OUR UNDERSTANDING THAT IT DOES NOT ESTABLISH MORATORIUM. SPECIFICALLY, IN OUR VIEW, EXPLOITATION WOULD NOT HAVE TO AWAIT THE ESTABLISHMENT OF THE REGIME.

5. DEL SHOULD TRY TO GET "AND THE INTERNATIONAL COMMUNITY" INSERTED AFTER "BY ALL STATES" IN PARA 5 OF ITALIAN TEXT, ALTHOUGH DEL NEED NOT INSIST ON THIS CHANGE.

6. IN PARA 6 OF ITALIAN TEXT, WE WOULD STRONGLY PREFER THAT "COMMON HERITAGE" PROVISION READ AS FOLLOWS: "... ON THE BASIS OF THE PRINCIPLE THAT THE MOON AND OTHER CELESTIAL BODIES AND THEIR NATURAL RESOURCES ARE THE COMMON HERITAGE OF MANKIND". HOWEVER, IF DELEGATION BELIEVES THIS WOULD CREATE SIGNIFICANT DANGER THAT OTHERWISE SATISFACTORY SOLUTION WOULD COME APART, DELEGATION MAY ACCEPT PARA 6 WITH ADDITION OF WORDS "AND OTHER CELESTIAL BODIES" PER PARA 2 ABOVE. IN ANY EVENT, DELEGATION SHOULD MAKE CLEAR OUR UNDERSTANDING THAT NEITHER PARA 6 NOR ANY OTHER PART OF ARTICLE CREATES ANY PROPERTY RIGHT WITH RESPECT TO RESOURCES AND SHOULD NOTE THAT MANNER OF IMPLEMENTATION OF "COMMON HERITAGE" PRINCIPLE WOULD, OF COURSE, BE SUBJECT OF CONFERENCE REFERRED TO IN PARA 6.44

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TO SECSTATE WASHDC 7473
INFO AMEMBASSY MOSCOW
AMEMBASSYNEW DELHI

C O N F I D E N T I A L USUN 1338

E.O. 11652: GDS
TAGS: TSPA, PFOR, UN, UR, IN
SUBJ: OUTER SPACE LEGAL: MOON TREATY - NATURAL RESOURCES
REF: STATE 068135 (NOTAL)

1. SUMMARY. EXTENDED CONSIDERATION OF MOON TREATY, NATURAL RESOURCES ARTICLE APRIL 12 FAILED TO PRODUCE AGREEMENT. MAIN OBSTACLE WAS QUESTION OF MARATORIUM ON EXPLOITATION PENDING ESTABLISHMENT OF INTERNATIONAL REGIME.

2. DETAILS. WORKING GROUP ON MOON TREATY APRIL 12 DEVOTED ENTIRE DAY TO CONSIDERATION OF ARTICLE X ON NATURAL RESOURCES. USDEL OPENED A.M. SESSION BY PROPOSING MODIFICATIONS OF ITALIAN COMPROMISE TEXT PER REFTEL. PROPOSALS CONCERNING PARAS 5 (". INTERNATIONAL COMMUNITY") AND 6 ("EXTENDING " COMMON HERITAGE" CONCEPT) MET WITH BROAD NEGATIVE RESPONSE, WITH MANY DELS EXPRESSING DISQUIET OVER REOPENING DISCUSSION CONCERNING LANGUAGE REGARDED AS SETTLED AND SATSIFACTORY ACCOMMODATION OF DIFFERING VIEWPOINTS.

3. AS EXPECTED, USSR AND JAPAN LED OPPOSITION TO EXTENDING "COMMON HERITAGE" PRINCIPLE TO ENTIRE CLESTIAL BODY RATHER THAN IT RESOURCES: NON-ALIGNED,

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WHILE MILDLY GRATIFIED BY US SUGGESTION, DID NOT SUPPORT IT WITH ANY VIGOR IN FACE OF STRONG SOVIET AND JAPANESE STATEMENTS ON QUESTION.

4. REGARDING ADDITION OF "THE INTERNATIONAL COMMUNITY" TO "ALL STATES" AS SHARERS OF PROSPECTIVE BENEFITS OF FUTURE RESOURCE EXPLOITATION, CANADA MILDLY SUPPORTED CONCEPT, BUT MAJORITY OF SUBCOMMITTEE ARGUED THAT TERM ADDED NOTHING TO CONTENT OF PROVISION. PER INSTRUCTIONS, USDEL DID NOT PURSUE EITHER PROPOSAL; MANY DELS EXPRESSED APPRECIATION WHEN THEY WERE DROPPED.

5. MAJOR IMPASSE DEVELOPED OVER QUESTION OF "MORATORIUM" ON RESOURCE EXPLOITATION PENDING INSTITUTION OF INTERNATIONAL REGIME AS RESULT OF FUTURE CONFERENCE. USDEL MOVED TO DELETE "NATURAL RESOURCES" FROM NON-APPROPRIATION PROVISION OF ARTICLE 7 ("NEITHER THE SURFACE NOR SUBSURFACE OF THE MOON OR OTHER CELESTIAL BODIES, OR ANY AREA THEROF, SHALL BECOME THE PROPERTY OF ANY STATE.") STATING THAT WHILE WE HAD NOT UNDERSTOOD THIS AS IMPOSING MORATORIUM, IN VIEW OF POSSIBLE CONTRARY INTERPRETATION WE WOULD HAVE TO INSIST ON ITS BEING DROPPED. INDIA RESPONDED WITH STATEMENT THAT THIS DELETION WOULD MAKE INDIAN POSITION ON ARTICLE X "COMPLICATED AND EXTREMELY DIFFICULT," AND WOULD FORCE INDIA TO REINTRODUCE ITS EARLIER RESOURCES PROPOSAL (WHICH WE INTERPRET AS EMBODYING MORATORIUM UNTIL INTERNATIONAL REGIME ESTABLISHED).

6. DURING EXTENDED ENSUING DISCUSSION, SEVERAL DELS SUPPORTED RETENTION OF "NATURAL RESOURCES" LANGUAGE WHILE DISCLAIMING INTENTION TO IMPOSE PRE-REGIME MORATORIUM, AMONG THEM BRAZIL WHICH ARGUED THAT DROPPING PHRASE COULD CREATE IMPLICATION THAT SOME FORM OF SOVEREIGN RIGHTS OVER NATURAL RESOURCES COULD BE ESTABLISHED.

7. US REP STRESSED THAT MORATORIUM PROVISION OR INTERPRETATION WAS ABSOLUTELY UNACCEPTABLE TO US. EMPHASIZING THAT THIS WAS UNINSTRUCTED AND ENTIRELY AD REFERENDUM, HE THEN ASKED GROUP'S VIEWS ON RETAINING "NATURAL RESOURCES" WHILE ADDING FOLLOWING EXPLICIT PROVISION:
QUOTE NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS IMPOSING A MORATORIUM ON EXPLORATION OF THE NATURAL RESOURCES OF

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THE MOON AND OTHER CELESTIAL BODIES PENDING ESTABLISHMENT OF THE INTERNATIONAL REGIME CONTEMPLATED IN PARA 4 OF THIS ARTICLE. END QTE. ALTHOUGH SEVERAL DELS EXPRESSED HOPE THAT THIS MIGHT PROVE SOLUTION, INDIA AND EGYPT REJECTED IDEA. EGYPT SUBSEQUENTLY ADVISED AGAINST PRESSING PROPOSAL ON GROUNDS THAT OFFICIALS IN CAPITALS MIGHT REACT WITH INSTRUCTIONS TO TAKE STILL MORE RIGID PROVISIONS.

8. MEETING BROKE OFF FOR INFORMAL CONSULTATIONS WHICH PROVED FRUITLESS, THEN REASSEMBLED IN PESSIMISTIC ATMOSPHERE. IN BRIEF INTERVENTIONS CANDA, UK AND AUSTRIA URGED AGAINST BREAKDOWN OF NEGOTIATIONS ON TREATY ON WHICH SO MUCH PROGRESS HAD BEEN ACHIEVED, CANADA ADDING THAT TEXT ALREADY CONTAINED SUBSTANTIAL BENEFITS FOR NON-SPACE POWERS INCLUDING PROVISION FOR FUTURE INTERNATIONAL REGIME OVER NATURAL RESOURCES OF CELESTIAL BODIES. USSR OMINOUSLY STATED THAT MUCH IN GENERAL DEVELOPMENT OF INTERNATIONAL LAW OF OUTER SPACE WOULD DEPEND ON OUTCOME OF CURRENT MOON TREATY NEGOTIATIONS. CHAIR (POLAND) CLOSED MEETING WITH LOW KEY APPEAL TO DELS TO APPROACH PROBLEM IN SPIRIT OF GOOD WILL AND COMPROMISE WITHOUT, HOWEVER, DISPLAYING EXCESSIVE HOPEFULNESS.
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